

ORDINANCE NO. OR16-400

**AN ORDINANCE AMENDING THE STOCKBRIDGE MUNICIPAL CODE WITH RESPECT TO THE REGULATION OF MOBILE FOOD VENDING; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WITNESSETH:**

THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

**SECTION 1.** That Title 9 of the Stockbridge Municipal Code is hereby amended by adding a new Chapter 9.90 attached hereto and made a part hereof as Exhibit A.

**SECTION 2. Intention of the Governing Body.** It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Stockbridge, Georgia, and the sections of the ordinance may be renumbered to accomplish such intention.

**SECTION 3. Approval of Execution.** The Mayor or Mayor Pro Tem is hereby authorized to sign all documents necessary to effectuate this Ordinance.

**SECTION 4. Attestation.** The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this ordinance, subject to approval as to form by the City Attorney.

**SECTION 5. Codification and Severability.**

(a) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were upon their enactment believed by the City Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the City Council that to the greatest extent allowed by law each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the City Council that to the greatest extent allowed by law no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.

(c) In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that to the

greatest extent allowed by law all remaining Sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**SECTION 6. Repeal of Conflicting Provisions.** Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 7. Effective Date.** This ordinance shall become effective immediately upon its adoption by the Mayor and City Council of the City of Stockbridge as provided in the City Charter.

SO ORDAINED this 9th day of May, 2016.

  
ANTHONY S. FORD, MAYOR PRO TEM

ATTEST:

 (SEAL)  
VANESSA HOLIDAY, CITY CLERK

APPROVED AS TO FORM:

  
MICHAEL WILLIAMS, CITY ATTORNEY

Date Presented to Mayor: 5-10-2016

Date Received from Mayor: 5-10-2016

## EXHIBIT A

### Chapter 9.90 – MOBILE FOOD VENDING

#### **Sec. 9.90.010- Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assistant vendor means a person who assists a vendor at the vendor's assigned vending site.

Designated food truck area means a geographic area designated in this article wherein permitted food truck vendors may vend from available spaces in accordance with this chapter.

Food truck means any motor vehicle used for vending of food items to the public from designated food truck areas or on private property.

Food vending cart means a vending cart at which prepared food, prepared beverages, pre-packaged food and pre-packaged beverages may be offered for sale.

Items permissible for sale means items which may be offered for sale by and are limited to pre-packaged beverages; pre-packaged food; prepared food; and prepared beverages.

Licenses and permits unit means that unit of the Stockbridge administration which enforces the ordinances applicable to mobile food property vending.

Mobile Food Vendor or Vendor means any person operating a food truck, food vending cart or vending cart who has been issued a valid vendor permit pursuant to the provisions of this chapter.

Moral turpitude means the act or behavior of baseness, vileness or the depravity in private and social duties which people owe to their fellow people, or to society in general, contrary to accepted and customary rule of right and duty between person and person; act or behavior that gravely violates moral sentiment or accepted moral standards of community and is a morally suitable quality held to be present in some criminal offenses as distinguished from others.

Pre-packaged beverages means beverages sealed in plastic or aluminum single serving containers excluding all beverages in glass containers.

Office of revenue means the office of the City of Stockbridge Department of Finance which issues permits for mobile food vending or any other unit or office of the Stockbridge administration assigned by the City Council to undertake such duties.

Operating area means:



- (1) The area in which a vendor may operate from a vending cart and which may not exceed 28 square feet of sidewalk including the area of the vending cart, and, when externally located, the operator and trash receptacle;
- (2) The parameters of the food truck.

Pre-packaged food means single serving sealed packaged foods including but not limited to candy, popsicles, chips/bagged snacks which do not require any heating or powered refrigeration, and the service of which does not require authorization by the Henry County Department of Health.

Prepared beverages means beverages prepared on site and which are not served in glass containers.

Prepared food means food prepared on site, the sale of which requires authorization by the Henry County Department of Health.

Public property and "public space" both mean for the purpose of this article any property owned by the City of Stockbridge, limited to city-owned sidewalks and city-owned parks.

Public property vending means vending activity as permitted on publicly owned property under the jurisdiction of the City of Stockbridge and in specifically designated city-owned parks.

Valid vendor location means an area which is authorized in this article, in which vending can take place. Vending at a valid vendor location shall only be permitted from vending carts that meet the standards set forth in this article, or from food trucks in designated food truck areas. Other than approved vending carts or food trucks, vending will be prohibited from tables or semipermanent or permanent structures.

Valid vendor permit means a permit issued by the City of Stockbridge. Such permit shall consist of a photo identification card which contains the vendor's name, photograph, vending type and classification, authorized valid vendor location(s) and time period for which such permit is valid.

Vending cart means a food vending cart which meets design requirements in Section 9.90.060.

**Sec. 9.90.020 - Purpose, intent and applicability.**

- (a) Mobile Food Vending on public property and private in the city, as defined in this article, shall be subject to regulation as set forth in this article, including the requirement of regulatory licenses and permits. Vending without a permit issued pursuant to this article shall be unlawful and subject to punishment as set forth in this section.
- (b) Any person violating this section shall, upon conviction thereof, be punished as follows:
  - (1) First conviction. A fine of not less than \$100.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.

- (2) Second conviction. A fine of not less than \$200.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.
- (3) Third conviction. A fine of not less than \$500.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.
- (4) Fourth conviction. Any person convicted of four or more violations of this article shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 and costs or imprisonment in the city jail for not more than 60 days or both.

(c) It is the intent of council in enacting this article to:

- (1) Serve and protect the health, safety and welfare of the general public.
- (2) Establish a uniform set of rules and regulations which are fair and equitable.
- (3) Provide economic development opportunities for small entrepreneurs in the city.
- (4) Provide a variety of goods and services for sale.
- (5) Promote stable vendors who will enrich the city's ambiance and be assets to public security.

**Sec. 9.90.030. - Vending business required to remit sales taxes and keep records.**

- (a) Every vendor shall file Georgia Department of Revenue (GDOR) St-3 Forms and remit monthly sale tax revenues to GDOR. Nothing in this section shall prohibit the revocation of any permit.
- (b) Prospective vendors, by filing an application, agree to produce documents and records which may be considered pertinent to the ascertainment of facts relative to the issuance and maintenance of the permit, including but not limited to the following:
  - (1) The prospective vendor's bank or other financial institution records, including those which are personal or from any business in which the vendor has any interest, such as savings and checking account records, bank statements, ledgers, deposit tickets, withdrawal slips, canceled checks, check stubs, bank drafts, cashier's checks, certificates of deposit, money market accounts, pass books and applications for each account;
  - (2) Personal state and federal income tax statements for the past five years; and
  - (3) Records of sales and receipts for purchases and expenses from any business in which a vendor has any interest.

**Sec. 9.90.040. - Vending operational rules.**

- (a) Hours of operation shall be 10:30 a.m. to 9:30 p.m.
- (b) Amplified sound or sound equipment is prohibited.
- (c) Any and all signage must comply with the City of Stockbridge Sign Ordinance.
- (d) Vendors may offer items permissible for sale only.



- (e) All vendors shall display their valid vending permits and any required copies of licensing agreements at the valid vendor location.
- (f) All vendors must maintain an auditable point-of-sale system to track and report on sales revenue and appropriate taxation.
- (g) Vending operations may not obstruct vehicular traffic flow except for up to 15 minutes to load and vending carts.
- (h) Vending operations, including but not limited to the display of merchandise and the provision of tables and/or chairs, may not exceed the approved operating area.
- (i) Vending carts and/or food trucks shall not be left unattended or stored at any time in the operating area when vending is not taking place or during restricted hours of operation.
- (j) Except for vending in city-owned parks, food trucks may only be open to and may only serve customers from the side of the truck facing the sidewalk. Food trucks are prohibited from operating with their trucks open to the roadway.
- (k) No alcoholic beverages may be sold by any mobile food vendor without such vendor having obtained a valid license pursuant to the provisions of Section 9.04.680 of the Stockbridge Municipal Code. Only beer, malt beverages and wine may be sold by mobile food vendors.

**Sec. 9.90.050. - Littering.**

All vendors engaged in the sale of pre-packaged food, pre-packaged beverages, prepared food, and/or prepared beverages shall affix to their vending cart, or motor vehicle, or shall locate directly outside the food truck, or motor vehicle a receptacle for trash, which shall be maintained and emptied regularly and which shall be marked as being for trash. Vendors engaged in the sale of the items permissible for sale listed in this section are responsible for the removal of trash within a 25-foot radius surrounding the vending cart or food truck.

**Sec. 9.90.060. - Aesthetic standards.**

Vending carts must comply with the following aesthetic standards:

- (a) Length of the cart may not exceed seven feet and width may not exceed four feet height-excluding canopies, umbrellas, or transparent enclosures-may not exceed five feet;
- (b) Umbrellas or canopies shall have a minimum clearance of seven feet and a maximum height of nine feet six inches above the sidewalk;
- (c) Umbrellas or canopies may not exceed 48 square feet (eight feet × six feet);
- (d) All carts must be mobile, and able to roll on wheels;

- (e) The design, materials, and colors are to be of natural wood or metal products and considerate of the immediate surroundings of the proposed location;
- (f) Materials must be in working order, and may not include peeling paint, visible defects or areas requiring maintenance;
- (g) The wheels located under the car are preferred, however projecting wheels must have fenders;
- (h) Hitches attached to the cart must be removable and detached when in operation; and
- (i) If used, propane tanks must be enclosed.

**Sec. 9.90.070. - Vendor permit and business license required.**

- (a) No mobile food vending shall occur without a permit issued pursuant to this chapter.
- (b) Except for vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles as prescribed in Section 9.90.160, mobile food vending shall be permitted only on the location or designated areas stated on the permit. This permit requirement is in addition to any general business license required or other special permission requirement.
- (c) No person shall engage in the business or trade of vending without first establishing compliance with Chapter 9.01 (ADMINISTRATIVE FEES, REGULATORY FEES AND OCCUPATION TAXES).
- (d) All valid vendor permits are nontransferable, and must be displayed in clear view, together with the vending permit photo identification card, at the permitted location or designated area at all times when the vendor or assistant vendor is present.

**Sec. 9.90.080. - Application.**

- (a) An application shall be required by all persons seeking issuance of a permit under this chapter. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the office of revenue.
- (b) Permit fees and applicable maintenance fees are due and payable by debit card, credit card, money order, certified check or cashier's check if and when the application is approved by the office of revenue.
- (c) The application shall, at a minimum, consist of the following data:
  - (1) Each applicant shall submit detailed data as follows:
    - a. Applicant's name and current address.
    - b. Applicant's previous addresses within the last five years.



- c. Social security number.
  - d. A dimensional drawing that clearly shows the footprint and placement of the cart or food truck and the operating area.
  - e. GDOR retail identification tax number.
  - f. Government issued picture identification.
  - g. City occupational tax certificate or evidence of such certificate from another jurisdiction.
  - h. A general description of the items permissible for sale to be sold or offered for sale.
- (2) All applicants shall furnish all data, information and records requested of them by the office of revenue within 30 days from the date of request. Failure to furnish such information within 30 days shall automatically dismiss, with prejudice, the application.

**Sec. 9.90.090. - Term and renewal of permits.**

- (a) A valid vendor permit will be issued for a one-year period. All valid vendor permits are required to be renewed annually on or before March 1. All annual permit fees and applicable annual maintenance fees are due and payable at the time of renewal.
- (b) Vendors may present to the office of revenue an application for a renewal permit. Upon a review and approval of the renewal application by the appropriate agencies, satisfaction of all other license and permit requirements, and upon payment of the appropriate fees, the vendor shall be furnished with a renewal permit.
- (d) Each applicant for a renewal application shall submit an application which shall at a minimum consist of the data required for the issuance of an initial permit.

**Sec. 9.90.100. - Annual fees.**

- (a) Annual permit fees and applicable annual maintenance fees are due and payable upon approval of the application.
- (b) The annual permit fee for all valid vendor permits shall be established by resolution of the City Council and may be amended in the sole discretion of the City Council from time to time.

**Sec. 9.90.110. - Location.**

- (a) Valid vendor locations are designated by the city as follows:
  - (1) Any location within a City-owned park subject to the limitations set forth in subsection (b).
  - (2) Any commercially-zoned private property where the applicant has a written agreement with the property owner, subject to the limitations set forth in subsection (b).
  - (3) Vending carts may be located on city-owned sidewalks, subject to the limitations set forth in subsection (b) and with the specific written approval of the City as indicated on valid vending permit.



(b) Valid vendor locations shall:

- (1) Not be within 15 feet of street intersections or pedestrian crosswalks or 15 feet of building entrances/exits or within 50 feet of hotels/motels;
- (2) Not be within 15 feet of other valid vendor locations where a valid vendor is operating;
- (3) Not be within 200 feet of permanent businesses selling the same or similar products as the vendor;
- (4) Provide a minimum of five feet of unobstructed pedestrian space;
- (5) Not be within 15 feet of a fire hydrant;
- (6) Not be within 1000 feet of the closet property line of any public or private elementary, middle or high school; and
- (7) Not be within one mile of any ongoing city event.

**Sec. 9.90.120. - Notification of name change or change of address.**

Whenever either the name or address provided by the vendor on the application for a valid vendor permit changes, the vendor shall notify the office of revenue in writing within ten days of such change and provide same with the name change or address change. Vendors shall assure that a current and correct name, residence address and mailing address are on file with the office of revenue at all times.

**Sec. 9.90.130. – Exempted Vendors.**

Vendors participating, with the prior authorization of the City, in city-sponsored events are not subject to the permitting requirements of Section 9.90.070 of this chapter, except that any such vendors wishing to sell alcoholic beverages must comply with Section 9.90.040(k) of this Chapter.

**Sec. 9.90.140. - Denials, fines, suspensions and revocations.**

- (a) No valid vendor permit shall be issued to any person who has been convicted within five years immediately prior to the filing of the application for any felony or misdemeanor relating to drug possession and related matter; crimes of moral turpitude; larceny, fraudulent conveyance, perjury and/or false swearing, or subrogation. Any conviction for dealing and/or trafficking in illegal drugs will automatically disqualify an applicant.
- (b) Failure to maintain initial qualifications shall be grounds for revocation or denial of a renewal permit.
- (c) A denial, fine, suspension, revocation of any permit issued pursuant to this article may be imposed for any of the following causes:
  - (1) Fraud, misrepresentation or false statements contained in the application.
  - (2) Failure on the part of a vendor to maintain initial eligibility qualifications.

- (3) Failure to furnish any and all documentation requested by the city for purposes of the investigation of any application or for the inspection of records pursuant to this division within 30 days of such request.
- (4) Any failure to comply with any requirement set forth in this article.
- (d) Any person whose permit is revoked may not reapply until one year following the effective date of the revocation.
- (e) In addition to carrying out all other investigations as may be permitted under this article, the license and permits unit shall investigate any alleged violation of this article upon receipt of a written, sworn complaint by any person who witnesses or becomes aware of a potential violation. Such complaint shall be signed under penalty of perjury, and shall be accompanied by any supporting evidence.

**Sec. 9.90.150. - Public hearing on suspension, fine, revocation or denial.**

- (a) A fine, suspension, revocation or denial of a permit issued under this article may be appealed to the City Council within 20 days of the applicant or permit holder's receipt of notice as described herein.
- (b) Notice of the denial, fine, suspension or revocation shall be given in writing, setting forth the complaint, and the grounds for denial, fine, suspension or revocation. Such notice shall be mailed to the vendor at least five calendar days prior to the date set for the hearing. Such notice shall be mailed by registered or certified mail to the address shown on the application. The city manager or his/her designee shall conduct the hearing and report his/her conclusions and recommendations to the city council. The City Council, upon receiving the recommendation of the city manager, may, within 60 calendar days of receipt of said recommendation, deny or grant an application for a new permit and may revoke, within five years immediately prior to the filing of the application for any felony suspend, fine or refuse to renew any existing permit. In addition, within said 60-day period, if the City Council determines there is a need to correct a clear error or prevent a manifest injustice, the City Council may remand the application or matter back to the city manager for further hearing. If the City Council fails to take action within the 60-day period, the recommendation of the city manager shall become the final decision of the City Council. The decision of the City Council may be appealed via Certiorari to the Superior Court of Henry County.
- (c) Under this section:
  - (1) A first violation within 24 months will result in a \$100.00 fine;
  - (2) A second violation within 24 months will result in a fine of no less than \$100.00 and no more than \$1,000.00 and/or up to a 12-month suspension of the permit, or revocation of the permit.
  - (3) A third violation within 24 months will result in the revocation of the permit.

**Sec. 9.90.160. - Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles.**



- (a) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles shall be subject to this section. Vendors permitted in accordance with this section shall not be permitted to sell prepared food or prepared beverages.
- (b) Every vendor selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall, before making any sale, park the vehicle at the right curb and at least eight feet from any other vehicle that may be parked on the street and not less than 100 feet from any intersecting street. When the vending vehicle stops, all sound equipment or other devices used to notify customers of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion.
- (c) No vehicle using sound equipment or other method of attracting customers shall operate such equipment before 12:00 p.m. or after 8:00 p.m. daily. No motor vehicle shall be operated within 600 feet of any public school in the City between the hours of 7:30 a.m. and 3:30 p.m. on days in which schools are actually in session.
- (d) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section, shall not stop or stand and do business for more than 30 minutes.
- (e) Vendors selling ice cream or other pre-packaged food and/or non-alcoholic pre-packaged beverages out of motor vehicles pursuant to this section shall not be restricted to any specific area.